IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION..

WRIT PETITION NO. 6047 OF 1996

Executive Engineer,
P.W.D., Nasik & ors. .. . Petitioners.

V/s.

Babu P. Raundal. ... Respondents.

None or the petitioner.

Shri P.N. Shastri for the respondents.

CORAM : V.C.DAGA, J.

DATED : 19.4.2006.

P.C. :

. None for the petitioner even at second call.

. Heard learned Counsel for the respondents.

. Perused petition.

2. The presence of law officers of the State Government in this Court has become a perennial problem. They will never remain present at the first-call. On second-call some Law officer, who is not in charge of the brief will appear only to seek adjournment. If adjournment is refused, then in charge advocate will appear without preparation only to seek short adjournment. The law officers, even when they appear they are invariably unprepared. They do not carry relevant case law; even the bare Act. Most of the time they are required to be given

books from the Court library. I may mention that the office of the Government Pleader is in total mess. Number of cases filed by the Government are lying under objections for years together. In most of the cases, services are incomplete. Revenue involving crores of rupees is blocked in the litigation. Quality of legal assistance from the State is absolutely poor and substandard.

3. The time has come when the State Government must go for young quality Law officers, who are very much available in the bar. However, this is possible only if the method of selection is made transparent and criteria of merit is applied while selecting law officers for the State. The Government is a biggest loser in the Courts only because of poor and substandard performance of the Law officers of the State who are not in a position to provide proper legal assistance to the Courts.

4. Be that as it may, turning to the case at hand, despite Practice-Note issued by this Court, office of the Goverment Pleader has not been taking steps to file written submissions. Had the written submissions been filed, this Court could have got an advantage of going through the same and decide the matter. In absence of written submissions, this Court has no option but to go through the petition

filed by the state with the help of the Advocate for opponent and decide it with the assistance of the learned Counsel for the respondent.

5. Factual matrix reveals that this petition is directed against the order dated 6.3.1996 passed by the Labour Court, Nasik, directing reinstatement of respondent No.2 with continuity of service and full backwages from the date of termination i.e. from 21.12.1987.

6. Learned Counsel appearing for the respondents submits that inspite of service, petitioner-State chose to remain absent before the Labour Court in reference proceeding. Consequently, the Court below was perfectly justified in proceeding exparte against the petitioner. He further submits that the affidavit of evidence was tendered which was accepted by the Labour Court. There was no challenge to the statements made therein. No steps were taken to get the exparte order set aside though it was permissible in law. He thus, submits that view taken by the Court below is a reasonable and possible view based on the material available on record as such order need not be interfered with in exercise of writ jurisdiction.

7. Learned Counsel for the respondents submits

that during the pendency of the petition Govt. Resolution dated 24.11.2000 came to be issued specifying therein; to which category of employees salary should be paid as per "Kalelkar Award". He submits that respondents are the employees who are covered by "Kalelkar Award". They would be entitled to get benefits mentioned in the "Kalelkar Award" as such those benefits should be extended to them.

8. The relief sought to be claimed on the basis of "Kalelkar Award" was not a subject matter of investigation or debate in the Court below or in the present petition, I, therefore, do not propose to dwell upon this issue.

9. However, It would be open for the respondents to make proper representation to the authorities concerned. In the event of any such representation, it would be open for concerned authorities to consider it on its own merits in accordance with law.

10. The view taken by the Court below in the impugned order is a reasonable and possible view. No perversity has crept in the order. Petition is liable to be dismissed.

11. In the result, petition is dismissed. Rule

is discharged with no order as to costs.

12. The Registry is directed to send copies of this order to the Hon'ble Minister of Law and Judiciary through Principal Secretary & R.L.A., Government of Maharashtra, Mumbai- 32 for information and necessary action.

(V.C.DAGA,J.)